

WITNESS NAME		Howenstein, Kim														
DEPOSITION DA		1/10/2019														
AFFIRMATIVE DEPOSITION DESIGNATIONS					COUNTER DESIGNATIONS * <i>Pink</i> = Completeness Designation					REPLY DESIGNATIONS * <i>Pink</i> = Completeness Designation						
Page/Line e Begin	Page/Line e End	Objections	Objection Notes	Replies to Objections	Page/Line e Begin	Page/Line e End	Objections	Objection Notes	Replies to Objections	Page/Line e Begin	Page/Line e End	Objections	Objection Notes	Replies to Objections		
10	11	10	19	n/a	15	17	16	20	none	135	14	135	24			
11	17	11	22	n/a	17	9	17	17	none	241	2	244	9			
12	1	14	22	n/a	98	13	98	15	none							
15	8	15	16	n/a	99	6	99	8	none							
16	21	17	8	n/a	135	3	135	13	none if reply designation stays in							
92	2	92	4	n/a	139	23	140	23	none							
92	9	92	15	n/a	233	11	233	15	none							
92	18	92	18	n/a	234	13	234	23	none							
94	2	94	11	Foundation	This is an objection to form which was not made during the deposition for 94:8-11, and is thus waived relative to same. Moreover, the foundation is provided by the exhibit itself, which is the witness's personnel file and which provides the information at issue (under the portion completed by the witness). See Dep. Exh. 3 (Howenstein employment file) at p. 6. In fact, the witness agreed and confirmed that she wrote the information in question (that she re-created Cardinal's procedure for threshold events and early dialogue). See Dep. at 96:4-10. Additionally, the foundation was provided by other testimony. The topic at issue was within the witness's experience and job responsibilities. See Dep. at 12:17-20 (her "main roles and responsibilities is the customer management of threshold reviews, threshold settings"), and 97:9-13 ("[n]ew account setup is part of the anti-diversion team"). The fact that the witness did not recall does not eliminate the foundation which was established, and the witness's lack of recall is itself consequential for competence and/or credibility. Further, to the extent that any alleged foundation issue exists, the Court can properly consider, account for, and/or weigh same in this bench trial.					355	23	356	8	foundation		
96	4	96	10	n/a												
97	2	98	9	Foundation	Same response as above (for 94:2-11). Also, this is an objection to form which was not made during the deposition for 97:2-98:7, and is thus waived relative to same. Moreover, the witness provided further foundation by confirming that the Cardinal's procedure at issue (for threshold events and early dialogue) was from the same time she stated in her evaluation that she re-created it. See Dep. at 97:3-15.											
98	11	98	12	n/a												
98	16	99	5	Foundation	This is an objection to form which was not made during the deposition, and is thus waived. Same substantive response as above (for 94:2-11 and 97:2-98:9).											
99	9	99	13	n/a												
125	22	125	24	Calls for a legal conclusion	The objection to legal conclusion is not supported. The questioning seeks the witness's understanding about the role she played and the role Quality and Regulatory Affairs played within Cardinal, including relative to helping protect the public. Moreover, the questioning tracks the witness's testimony as well as language from the exhibit written by the witness. See Dep. Exh. 3 at p. 48 ("QRA can be viewed as a thankless job at times simply because the nature of the business and the role we must play within Cardinal Health to protect the public."). See also, Dep. at 132:3-7.											
126	2	126	7	Calls for a legal conclusion	Same response as above.											
126	14	126	22	Calls for a legal conclusion	Same response as above.											
127	4	127	7	Calls for a legal conclusion	Same response as above.											
127	9	127	19	Calls for a legal conclusion	Same response as above.											
128	10	128	12	Calls for a legal conclusion	Same response as above.											
128	18	128	21	Calls for a legal conclusion	Same response as above.											
128	23	128	24	Calls for a legal conclusion	Same response as above.											
129	2	129	5	Calls for a legal conclusion	Same response as above.											
130	6	130	9		n/a											
130	12	130	15		n/a											
130	18	130	18		n/a											
130	21	131	15		n/a											
131	22	131	23		n/a											
132	2	132	10		n/a											
132	12	132	12		n/a											
132	14	132	24	Argumentative (132:21-23)	This is simply a factually accurate recitation of what was previously asked, which was necessitated by the witness's prior inability to answer. See Dep. at 123:14-125:21. Further, to the extent that any alleged argument exists, the Court can properly consider, account for, and/or weigh same in this bench trial. <i>With the above said, if Cardinal withdraws the objection, Plaintiffs agree to withdraw designation of the first portion of the questioning (at 132:21-23), and will keep the following (at 132:23-24): "But these are your words that you wrote back in 2013, correct?"</i>											

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133	3	133	13			n/a																
136	1	136	4			n/a																
139	14	139	22			n/a																
152	16	152	21			n/a																
153	1	153	6			n/a																
153	10	153	22	Argumentative (153:19-22)		Plaintiffs disagree that 153:19-22 is argumentative. The questioning is phrased in order to provide the witness with context and perspective. The questioning sought the witness's understanding of the matter, she was given an opportunity to answer, and she did so without difficulty (and in fact elaborated). Further, to the extent that any alleged argument exists, the Court can properly consider, account for, and/or weigh same in this bench trial.																
153	24	154	1			n/a																
157	2	157	11			n/a																
159	2	159	16			n/a																
202	22	203	2			n/a																
205	3	206	5	Relevance (geographic scope) (206:1-5)		The relevance/geographic scope objection has been overruled by the Court relative to Florida and Cardinal's Lakeland facility. See 6/8/2021 Trial Tr. at 88:18-24 ("I've dealt with the geographic scope objections before and I think the theory is that there is a systemic failure that transcended the -- pretty much the entire operation which would have encompassed Cabell/Huntington and -- Cabell/Huntington. So I'm going to overrule the geographic scope objection.").																
206	7	206	13	Relevance (geographic scope)		Same response as above.																
206	15	206	16	Relevance (geographic scope)		Same response as above.																
207	13	208	4			n/a																
208	6	209	6			n/a																
210	8	210	18			n/a																
210	20	212	7	Foundation, Argumentative (212:2-7)		As for the foundation and argumentative objections, they are not supported. The question was posed for confirmation and not argument. Moreover, the witness had the experience, knowledge and job responsibilities to answer the question, which the witness did without difficulty. Further, any alleged issue with the question can be properly considered, accounted for, and/or weighed in this bench trial.																
212	10	212	10			n/a																
214	12	215	3			n/a																
219	19	220	6			n/a																
220	8	220	10			n/a																
230	23	231	23	Foundation		This is an objection to form which was not made during the deposition for 230:23-231:7, and is thus waived relative to same. Moreover, the foundation was laid prior to the questioning at issue. See Dep. at 230:21-22 ("I have heard of the cockroach effect."). The foundation was further confirmed by the witness's testimony and with context. See Dep. at 231:21-22 ("I understand the cockroach effect in that statement."). Additionally, the foundation was provided from the document/exhibit. See Dep. Exh. 3 at p. 28 ("There is a cockroach effect happening where if a terminate -- if we terminate a bad customer based on evidence of potential diversion, those customers will scatter to good pharmacies."). And, the witness confirmed that she wrote this and understood it. See Dep. at 234:8-12.																
232	1	233	2	Foundation		Same response as above except for the waiver argument.																
233	4	233	8	Foundation		Same response as above except for the waiver argument.																
233	16	233	23	Foundation		Same response as above except for the waiver argument.																
234	2	234	6	Foundation		Same response as above except for the waiver argument.																
234	8	234	9			n/a																
234	12	234	12			n/a																